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January 30, 2024

Via ECF

Honorable Gregory H. Woods
United States District Court
Southern District of New York
500 Pearl Street, Room 2260
New York, NY 10007

Re: **Northwest Biotherapeutics Inc. v. Canaccord Genuity LLC, et al.,**
No. 1:22-cv-10185

Dear Judge Woods:

We represent Plaintiff Northwest Biotherapeutics, Inc. in the above-captioned action and write in response to Defendant Citadel Securities LLC's letter (ECF 145) in which Defendants request leave of Court to file a reply brief of up to ten pages in support of their Objections to Magistrate Judge Stein's Report and Recommendation ("R&R") on Defendants' motion to dismiss (ECF 137). This Court denied Defendants' earlier request to extend the briefing schedule for responding to the R&R by 30 days (ECF 140), and should similarly deny Defendants' present request.

Defendants' request for yet another brief on their motion to dismiss is just their latest attempt to needlessly prolong these proceedings. Indeed, Defendants' letter request itself – which includes both inaccurate and inappropriate argument – flouts the intent, if not the letter, of both the Federal Rules of Civil Procedure and Your Honor's Individual Rules. The **210 pages** of briefing already filed regarding Defendants' motion to dismiss is sufficient for this Court to understand all relevant issues. This briefing includes:

1. Defendants' 40-page motion to dismiss (ECF 115), which attached 28 exhibits (ECF 116);
2. Plaintiff's 40-page opposition to Defendants' motion to dismiss (ECF 123);
3. Defendants' 25-page reply in support of their motion to dismiss (ECF 124);
4. A combined 14 pages of supplemental briefing on the recent *Harrington Global Opportunity Fund, Ltd. v. CIBC World Markets Corp.*, 2023 WL 6316252 (S.D.N.Y. Sept. 28, 2023) (*Harrington II*) decision (ECF 127, 128);

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5. A combined 6 pages of supplemental briefing regarding Defendants' request for judicial notice of certain exhibits (ECF 133, 136);
6. Defendants' 25-page Objections to the R&R (ECF 141);
7. Plaintiff's 19-page Limited Objection to the R&R (ECF 142);
8. Defendants' 21-page Response to Plaintiff's Limited Objection to the R&R (ECF 143); and
9. Plaintiff's 20-page Response to Defendants' Objections to the R&R (ECF 144).

In addition to this extensive briefing, Magistrate Judge Stein held a lengthy oral argument on Defendants' motion to dismiss (generating a 101-page transcript), and issued an 85-page R&R addressing in detail each conclusion to which Defendants have objected.

Defendants' arguments for why such a reply brief is purportedly justified despite this extensive briefing can be easily rejected. First, as Plaintiff explained in its Response to Defendants' Objections to the R&R (ECF 144), Defendants' Objections (and now even their letter request) merely re-hash the same arguments they presented in the comprehensive briefing and extensive oral argument before Magistrate Judge Stein, including their argument that they were purportedly trading on behalf of clients and the relevancy of the recent *Kessev Tov* decision. Defendants provide no justification for extending the current briefing to permit further redundancy. Nor, can they explain why the "clear error" standard is not appropriate in such circumstances, as Your Honor has made clear. *Catania v. United Federation of Teachers*, No. 21-cv-1257, 2022 WL 767107 at *1 (S.D.N.Y. Mar. 12, 2022) (Woods, J.) ("[w]here the party makes only frivolous, conclusory or general objections, *or simply reiterates her original arguments, the Court reviews the report and recommendation only for clear error.*") (internal quotations omitted and emphasis added). Second, contrary to Defendants' assertion, and as both the R&R and Plaintiff's briefing make clear with extensive citations to applicable cases, there is nothing new or novel about the standards courts use to determine whether a spoofing claim is adequately pled.

Accordingly, Plaintiff respectfully requests that the Court deny Defendants' request to file a reply brief in support of its Objections to the R&R. If, however, the Court is inclined to grant Defendants' request, Plaintiff respectfully requests that it be granted the opportunity to file a reply in support of its own limited objection on the same schedule.

Respectfully submitted,

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